

#### **§ 950.34**

Decision procedure. The parties shall abide by the procedures of the Civilian Board for Summary Binding Decision. The parties agree that the decision of the Civilian Board shall constitute a Final Claim Determination.

#### **§ 950.34 Final claim determination.**

(a) If the parties reach a Final Claim Determination through mediation, or Summary Binding Decision as set forth in this subpart, the Final Claim Determination is a final settlement of the issue, made by the sponsor and the Program Administrator.

(b) The parties agree that no appeal shall be taken or further review sought and that the Final Claim Determination is final, conclusive, non-appealable, and may not be set aside, except for fraud.

#### **§ 950.35 Payment of final claim determination.**

Once a Final Claim Determination is reached by the methods set forth in this subpart, the parties intend that such a Final Claim Determination shall constitute a final settlement of the claim and the sponsor may immediately present to the Department a Final Claim Determination for payment.

#### **§ 950.36 Other contract matters in dispute.**

(a) If the parties disagree over terms or conditions of the Standby Support Contract other than disagreements related to covered events or covered costs, then the parties shall engage in informal dispute resolution as follows:

(1) The parties shall engage in good faith efforts to resolve the dispute after written notification by one party to the other that there is a contract matter in dispute.

(2) If the parties cannot reach a resolution of the matter in disagreement within thirty (30) days of the written notification of the matter in dispute, then the parties shall have fifteen (15) days during which time they must informally and in good faith participate in mediation to attempt to resolve the disagreement before instituting the process under paragraph (b) of this section. If the parties reach agreement through mediation, the agreement

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shall constitute a Final Agreement on the matter in dispute.

(3) The parties shall jointly select the mediator(s). The parties shall share equally the cost of the mediation.

(b) If the parties cannot resolve the disagreement through mediation under the timeframe established in paragraph (a)(2) of this section and either party elects to continue pursuing the disagreement, that party shall within ten (10) days submit any remaining issues in controversy to the Civilian Board or its successor, for resolution by an Administrative Judge of the Civilian Board utilizing the Civilian Board's Summary Binding Decision procedure. The parties shall abide by the procedures of the Civilian Board for Summary Binding Decision. The parties shall agree that the decision of the Civilian Board constitutes a Final Decision on the matter in dispute.

#### **§ 950.37 Final agreement or final decision.**

(a) If the parties reach a Final Agreement on a contract matter in dispute through mediation, or a Final Decision on a contract matter in dispute through a Summary Binding Decision as set forth in this subpart, the Final Agreement or Final Decision is a final settlement of the contract matter in dispute, made by the sponsor and the Program Administrator.

(b) The parties agree that no appeal shall be taken or further review sought, and that the Final Agreement or Final Decision is final, conclusive, non-appealable and may not be set aside, except for fraud.

### **Subpart E—Audit and Investigations and Other Provisions**

#### **§ 950.40 General.**

The parties shall include a provision in the Standby Support Contract that specifies the procedures in this subpart for the monitoring, auditing and disclosure of information under a Standby Support Contract.

#### **§ 950.41 Monitoring/Auditing.**

The Department has the right to audit any and all costs associated with the Standby Support Contracts. Auditors who are employees of the United

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States government, who are designated by the Secretary of Energy or by the Comptroller General of the United States, shall have access to, and the right to examine, at the sponsor's site or elsewhere, any pertinent documents and records of a sponsor at reasonable times under reasonable circumstances. The Secretary may direct the sponsor to submit to an audit by a public accountant or equivalent acceptable to the Secretary.

### § 950.42 Disclosure.

Information received from a sponsor by the Department may be available to the public subject to the provision of 5 U.S.C. 552, 18 U.S.C. 1905 and 10 CFR part 1004; provided that:

(a) Subject to the requirements of law, information such as trade secrets, commercial and financial information that a sponsor submits to the Department in writing shall not be disclosed without prior notice to the sponsor in accordance with Department regulations concerning the public disclosure of information. Any submitter asserting that the information is privileged or confidential should appropriately identify and mark such information.

(b) Upon a showing satisfactory to the Program Administrator that any information or portion thereof obtained under this regulation would, if made public, divulge trade secrets or other proprietary information, the Department may not disclose such information.

## PART 960—GENERAL GUIDELINES FOR THE PRELIMINARY SCREENING OF POTENTIAL SITES FOR A NUCLEAR WASTE REPOSITORY

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